

THE TOWN OF FORT MYERS BEACH



REQUEST FOR PROPOSAL

TIMES SQUARE INFORMATIONAL BOOTH

FOR THE TOWN OF FORT MYERS BEACH

RFP-17-18-PW

Issued: January 31, 2017

Proposals Due: TUESDAY, MARCH 7, 2017
2:00 p.m. EST

Prepared by:

Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931

**TIMES SQUARE INFORMATIONAL BOOTH
RFP-17-18-PW – LEGAL AD**

The Town of Fort Myers Beach is seeking proposals for a vendor to provide an information booth structure and operation of a twenty foot by fifteen foot (20' x 15') area informational booth in the Times Square Pedestrian Plaza in downtown Fort Myers Beach, Florida.

Estimated operational start date – April 2017

Town Hall is located at 2525 Estero Boulevard, Fort Myers Beach, Florida 33931. Sealed proposals must be received in Town Hall, attention Contracts Manager, no later than **2:00 p.m. Eastern Standard Time, Tuesday, March 7, 2017**. Any proposal submitted after the specified time and date will not be considered and will be returned unopened to Respondent. Proposals received by telephone, telegraph, facsimile and/or e-mail will not be accepted.

This project requires the Provider(s) selected to be qualified to do business in the State of Florida at the time of submittal and during the entire course of services rendered. The Local Vendor/Contractor preference will not apply to this procurement.

Interested parties must obtain the project documents for **Times Square Informational Booth, #RFP-17-18-PW** from www.demandstar.com, www.fortmyersbeachfl.gov, or by calling (239) 765-0202. A non-refundable fee of \$7.50 will be required for each package provided from Town Hall. All requests for packages from Town Hall must be accompanied by a check or money order in the full amount and shall be made payable to: TOWN OF FORT MYERS BEACH. There will be an additional charge to cover expenses if packaging and mailing is required.

Respondents are solely responsible for checking the Town web site for the issuance of any addenda prior to submitting a proposal, and for providing the Town with a current email address for this purpose. If the package is not obtained directly from the Town of Fort Myers Beach, or is modified in any manner, the Proposal will not be accepted for consideration by the Town.

No later than **2:00 PM Eastern Standard Time, Tuesday, March 7, 2017**, Respondents shall submit one (1) original proposal and three (3) identical copies of the Respondent's proposal, along with an electronic copy of the same as a PDF on CD/DVD, in a sealed envelope which is clearly and visibly marked on the outside, "**Times Square Informational Booth, #RFP-17-18-PW**" Respondent's complete name and address shall also appear on the exterior of the proposal package.

The Town of Fort Myers Beach reserves the right, in its sole judgment in the best interest of the Town, to waive any informalities in any proposals; to make award(s) including multiple awards; to waive any non-substantive, in Town's sole judgment, irregularity or technicality in proposals received, and/or to reject any or all proposals.

Any Respondent that submits to this RFP should be available, if called upon, to present to the Fort Myers Beach Town Council at their regularly scheduled meeting on Monday, March 20, 2017 at 6:30 p.m. eastern standard time.

It is the Respondent's responsibility to insure the proposal is mailed or delivered by the due date. The Town will not be held responsible for proposals delayed by the U.S. Mail or any other courier. The Town shall not be held liable for any expenses incurred by the Respondent in preparing and submitting the proposal and/or attendance at any interviews, contract negotiations or site visits.

RECEIPT OF PROPOSALS:

Estimated operational start date – April 2017

In the event a team of firms is entering into a joint venture to respond to the RFP, one firm shall be named the prime service provider and the proposal shall be submitted in the name of the prime service provider. All correspondence concerning the RFP will be between the Town and prime service provider.

A. SUBCONTRACTING:

Should the Respondent intend to subcontract all or any part of the work specified, name(s) and address(es) of subcontractor(s) must be provided in proposal response. The Respondent shall be responsible for subcontractor(s)' full compliance with the requirements of the RFP specifications. If awarded the contract, payments will only be made to prime Respondents submitting the proposal. The Town will not be responsible for payments to subcontractors.

B. QUESTIONS ABOUT THE RFP:

Any questions or communications concerning conditions and specifications shall be submitted in writing to the Town representative no later than five (5) business days prior to the proposal due date by fax or e-mail. Communications shall be addressed to Contracts Manager, Phone (239)765-0202; Fax (239) 765-0909; e-mail bids@fortmyersbeachfl.gov. Replies will be issued to all Respondents of record via email as addenda that will become part of the contract documents.

C. ADDENDA:

The Respondent shall include acknowledgment of receipt of addenda (if any) in their sealed proposal. The Respondent should include an initialed copy of each addendum in the proposal package

D. PUBLIC INFORMATION:

All information and materials submitted will become the property of the Town and shall be subject to the provisions of the public records laws in effect at that time. If awarded the contract, the proposal submission, in its entirety, will be included as part of the contract documents and filed, as public record, with the Clerk of the Town.

E. QUALIFICATION PROCEDURES:

All applicants must be qualified to do business in the State of Florida and must have a physical street address (not a post office box) in the State of Florida.

F. INDEMNITY:

The successful Respondent will be required to defend, indemnify and hold the Town harmless from any and all causes of action or claims of damages, including but not limited to attorney fees and costs incurred by the Town.

G. EQUAL OPPORTUNITY STATEMENT:

The Town of Fort Myers Beach, in accordance with the provisions of Title VI of the Civil Rights Act of 1964, et seq. hereby notifies all firms and individuals that it will require affirmative efforts be made to ensure equal participation in all contracts. No firm or individual shall be discriminated against on the grounds of race, color, gender, national origin, religious affiliation, sexual orientation, age or disability in consideration for qualification or selection.

H. TAXES:

All Town business licenses, personal property, real estate and other applicable tax requirements shall be met by the successful Respondent.

I. DRUG-FREE WORKPLACE:

The policy of the Town requires that all Service Providers maintain a drug free workplace policy. Consequently, any Service Provider providing goods or services to the Town must comply with all applicable Federal and State Drug Free Workplace Acts.

J. FEDERAL, STATE, LOCAL LAWS:

All Service Providers must comply with all Federal, State and Local laws, ordinances, rules and regulations for conducting business in The Town and performing the prescribed services. Ignorance on the part of the Service Provider shall not, in any way, relieve the Service Provider from responsibility for compliance with said laws and regulations or any of the provisions of these documents.

K. INSURANCE:

All Service Providers shall submit proof of insurance as set forth below. Certificates of insurance written by a company or companies acceptable to the Town shall be submitted to the Town no later than ten (10) days after award of the contract. Failure to do so will disqualify the Service Provider automatically. The award of a contract is conditioned upon such submittal to the Town's satisfaction. Certificates of insurance shall list the Town as the certificate holder and as an additional insured. Insurance shall be maintained during the entire term of the contract, shall include Contractual Liability and Products and Completed Operations Coverage, and shall be of the following forms and limits:

Worker's Compensation Coverage for all employees consistent with and meeting the statutory limits required by the applicable State and Federal laws.

Employer's Liability with a minimum limit per accident in accordance with statutory requirements.

Commercial General Liability Insurance with minimum limits of \$500,000 per occurrence and \$500,000 aggregate for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$1,000,00.

Business Automobile Liability Insurance with minimum limits of \$500,000 per person and \$500,000 per accident for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.

Crime Coverage with minimum limits of \$200,000.

The establishment of minimum limits of insurance by Town does not reduce or limit the liability or responsibilities of Service Provider.

Renewal shall be sent to the Town at least 30 days prior to any expiration date. Service Provider shall ensure that its insurer provides a 30 day notification to the Town in the event of cancellation, renewal, or modification of any required insurance coverage requirements that the Service Provider is required to meet. The Service Provider shall provide the Town with certificates of insurance meeting the required insurance provisions.

L. TIME OF CONTRACT:

The Town anticipates awarding a License Agreement for a term of one (1) year with an option for two (2) additional terms of one (1) year each, for a possible total of three (3) years. Rates and all other negotiated expenses will remain in effect throughout the duration of the contract term, including renewals, unless amended by mutual agreement of the parties. The Agreement may be terminated by the Town without cause or at its convenience, by the Town giving sixty (60) days' written notice to the Service Provider. The Town has a right to terminate all or a portion of the Licensee's operation if numerous complaints are received and substantiated by the Town; or, Licensee's operation is otherwise deemed not in compliance with the terms of this License Agreement. In the sole discretion of the Town, Licensee may be provided with an opportunity to correct the noncompliance after written notice is provided. In no event may the noncompliance continue for a period longer than 7 calendar days.

M. TIME FOR CONSIDERATION:

Due to the evaluation process, proposals must remain in effect for at least 90 days after date of opening.

SCOPE OF SERVICES

The Town recognizes the value of tourism to the local economy and desires to enhance both the visitor experience and the economic impact of visitor spending on and near Fort Myers Beach through a program of visitor information in Times Square. To that end, the Town seeks a well-qualified Provider of visitor information services.

The Provider shall perform the following services:

The Town of Fort Myers Beach is seeking proposals for a vendor to provide an informational booth in the designated area on the attached map in the Times Square Pedestrian Plaza in downtown Fort Myers Beach, Florida.

- The Town of Fort Myers Beach is seeking the operation of an information booth, with the main goal to promote Fort Myers Beach and Lee County, on the designated site with maximum operating hours from 7:00am-9:00pm, 365 days a year. Hours may vary due to inclement weather and holidays.
 - Conditions of operation:
 - No food, drink or sundries will be permitted for sale at the informational booth. ONLY informational brochures and advertisements will be distributed at the booth. The Town reserves the right to provide Town related brochures to the Provider to distribute to the Public.
 - Provider shall provide and pay for the following utilities: a cellular telephone number specific to their business for operations and installation of electricity (with the Towns approval). Trash removal is the responsibility of the Provider;
 - At Providers expense, obtain any and all permits necessary to operate at the location, give all necessary notices, pay all license fees and taxes, (including but not limited to sales tax), and comply with all municipal, county, state, and federal laws, rules, ordinances, and regulations;
 - The Provider shall be solely responsible for all costs of doing business, including but not limited to providing and paying for inventory, personnel costs, all payroll, income, sales and other taxes, incurred by Provider in the course of performance of this agreement;
 - Comply will all applicable laws pertaining to wages, workers' compensation, equal opportunity, and other employment regulation as required by law;
 - Keep the area clean, orderly, attractive, secure, and in a safe and sanitary condition to the satisfaction of the Town. Provider shall not make alterations to any Town furnished property or premises;
 - Employ only persons who meet the health standards prescribed by law or regulation which pertain to the jobs for which they were hired;
- A. The proposer is offering to the Town of Fort Myers Beach the annual sum of \$_____ for the contractual operation of the informational booth.

PROPOSAL SUBMITTAL CHECKLIST

THIS CHECKLIST IS MERELY A GUIDE TO ASSIST THE RESPONDENT IN PREPARING A COMPLETE PROPOSAL SUBMITTAL

IMPORTANT: Please read carefully and follow each item.

Please check off each of the following items as the necessary action is completed:

- ☐ 1. A cover letter / letter of interest;
- ☐ 2. Any literature, or printed material about your company or services provided;
- ☐ 3. A history and background of your company;
- ☐ 4. Any similar project experience(s);
- ☐ 5. State what type of organization your business is;
- ☐ 6. An explanation of your funding source(s) since there is to be no selling of goods;
- ☐ 7. What type of structure will be used for your operation;
- ☐ 8. What benefit will selecting you as a vendor bring to the Town of Fort Myers Beach.
- ☐ 9. Include a signed copy of each addendum, if any.
- ☐ 10. Public Entities Crime Form properly completed, signed and notarized.
- ☐ 11. Affidavit Certification Immigration Laws properly completed, signed, and notarized.
- ☐ 12. Acknowledge receipt of the License Agreement as part of the proposal submission, and acknowledge the License Agreement shall be executed by all parties, or note provisions objected to and why.
- ☐ 13. List of subcontractors, including the name and address of each subcontractor, if applicable.
- ☐ 14. The mailing envelope must addressed to:
Town of Fort Myers Beach - Town Hall
2525 Estero Boulevard
Fort Myers Beach, Florida 33931
ATTN: Contracts Manager

- ☐ 15. The mailing envelope must be sealed and marked **“Times Square Information Booth, #RFP-17-18-PW”** with the due date and time noted. All courier delivered proposals must have the RFP title and number on the outside of the courier packet.
- ☐ 16. For proper identification, the Respondent’s complete name and address must also appear on the exterior of the proposal package.
- ☐ 17. Submit one (1) original and three (3) identical copies of the complete proposal, and an electronic copy of the same as PDF on CD/DVD or flash drive.
- ☐ 18. Proposals must be submitted by mail or in person to the address herein no later than

2:00 PM Eastern Standard Time on Tuesday, March 7, 2017.

EXHIBIT A - PUBLIC ENTITY CRIME AFFIDAVIT

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3) (a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER
OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

1. This sworn statement is submitted to _____
(print name of public entity)

by _____
(print individual's name and title)

for _____
(print name of entity submitting sworn statement)

whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____
(If the entity has no FEIN, include the Social Security Number of individual signing this sworn statement: _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.233(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid, proposal or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.233 (1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate

5. I understand that a "person" as defined in Paragraph 287.133 (1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach a copy of the final order)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

Sworn to and subscribed before me this _____ day of _____, 20__.

Personally known _____

OR Produced Identification _____

Notary Public – State of _____

(Type of Identification)

My Commission expires _____

(Printed typed or stamped

commissioned name of notary public)

(Rev. 3/20/07)

EXHIBIT B – AFFIDAVIT CERTIFICATION IMMIGRATION LAWS

Date: _____, 20__

TOWN OF FORT MYERS BEACH WILL NOT INTENTIONALLY AWARD TOWN CONTRACTS TO ANY CONTRACTOR WHO KNOWINGLY EMPLOYS UNAUTHORIZED ALIEN WORKERS, CONSTITUTING A VIOLATION OF THE EMPLOYMENT PROVISIONS CONTAINED IN 8 U.S.C. SECTION 1324 a(e) SECTION 274A(e) OF THE IMMIGRATION AND NATIONALITY ACT ("INA").

TOWN OF FORT MYERS BEACH SHALL CONSIDER THE EMPLOYMENT BY ANY CONTRACTOR OF UNAUTHORIZED ALIENS A VIOLATION OF SECTION 274A (e) OF THE INA. **SUCH VIOLATION BY THE RECIPIENT OF THE EMPLOYMENT PROVISIONS CONTAINED IN SECTION 274A (e) OF THE INA SHALL BE GROUNDS FOR UNILATERAL CANCELLATION OF THE CONTRACT BY THE TOWN.**

PROVIDER ATTESTS THAT THEY ARE FULLY COMPLIANT WITH ALL APPLICABLE IMMIGRATION LAWS (SPECIFICALLY TO THE 1986 IMMIGRATION ACT AND SUBSEQUENT AMENDMENTS).

Company Name: _____

(Signature) (Title) (Date)

STATE OF _____

COUNTY OF _____

The foregoing instrument was signed and acknowledged before me this _____ day of _____, 20__, by _____ who has produced
(Print or Type Name)

_____ as identification.
(Type of Identification and Number)

Notary Public Signature

Printed Name of Notary Public

Notary Commission Number/Expiration

The signee of this Affidavit guarantee, as evidenced by the sworn affidavit required herein, the truth and accuracy of this affidavit to interrogatories hereinafter made. TOWN OF FORT MYERS BEACH RESERVES THE RIGHT TO REQUEST SUPPORTING DOCUMENTATION, AS EVIDENCE OF SERVICES PROVIDED, AT ANY TIME.

EXHIBIT C – SCORING MATRIX

Informational Booth Evaluation

Part 1 Qualification: Town Council shall rank proposals based upon the criteria presented below:

Part 2 The top 3 high ranking proposers shall make presentation to Town Council for final selection by Council

Ranking for points shall be 1 as low and up to 15 as high

Proposer shall indicate the percentage of display space that will be allocated to each of the categories identified below:

- _____ Percentage of space allocated for Town of Fort Myers Beach Town information and programs such as Mound House, Newton Park, Bay Oaks Recreation and Town Public Awareness (15)
- _____ Percentage of space allocated for Fort Myers Beach Activities and Programs (15)
- _____ Percentage of space allocated for Fort Myers Beach Businesses (15)
- _____ Percentage of space allocated for Fort Myers Beach Organizations (10)
- _____ Percentage of space for Lee County Attractions (10)
- _____ Percentage of space for other (5)

TOTAL 70 points available

Proposer shall indicate the percentage of estimated promotional sales (advertising, sales promotion, personal selling, direct marketing) that will be allocated to each of the categories

- _____ Percentage of Fort Myers Beach promotional sales as part of business operation (15)
- _____ Percentage of Lee County promotional sales as part of business operation (10)
- _____ Percentage of other promotional sales as part of business operation (5)
- _____ Ability to provide acceptance of fundraising for Town Fireworks and events (10)

TOTAL 40 points available

Proposer shall indicate its ability to operate and interact with the public

- _____ Ability to operate 9 am to sunset, 365 days per year (10)
- _____ Ability to provide on-site staff to answer questions from 9 am to sunset, 365 days per year (10)
- _____ Ability to provide live phone access for answering questions from 9 am to sunset, 365 days per year (5)
- _____ Ability to provide additional informational resources such as link to web sites, apps etc. (5)

TOTAL 70 points available

- _____ Appearance of proposed informational booth (10)
- _____ Revenue amount generated to the Town (15)

TOTAL 25 points available

EXHIBIT D – SAMPLE LICENSE AGREEMENT

LICENSE AGREEMENT TIMES SQUARE INFORMATION BOOTH RFP-17-18-PW

THIS LICENSE AGREEMENT made this _____ day of _____, is between the Town of Fort Myers Beach, a municipality of the State of Florida whose mailing address is 2523 Estero Boulevard, Fort Myers Beach, Florida 33931 (Town or Licensor); and, _____, whose mailing address is _____ (Licensee).

WHEREAS, the Town owns and controls property located in the Fort Myers Beach downtown area, commonly referred to as the Times Square Area, as depicted on attached Exhibit 1 (Times Square Area); and

WHEREAS, the Town desires to use a 320 square foot portion of its property, identified on Exhibit 1 as the "Booth Rental Area", for the purpose of providing an information booth in accordance with the terms of this Agreement and the RFP-17-18-PW solicitation documents; and

WHEREAS, pursuant to RFP-17-18-PW, the Licensee was the vendor awarded the right to run the Information Booth in accordance with the terms of this License Agreement; and

WHEREAS, the Town has the authority and believes it is appropriate to enter into this License Agreement for the benefit of its citizens and visitors.

NOW, THEREFORE, in consideration of the mutual terms and conditions contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows.

1. **Recitals**. The above recitals are true and correct and incorporated herein as though fully set forth below.

2. **License Area**. The Town hereby grants a license to Licensee to use the 320 square foot License Area depicted on Exhibit 1 and labeled "Booth Rental Area" for the Information Booth operation. Other areas within Times Square adjacent to the Information Booth location may be used by the Licensee if prior approval is obtained from the Town.

Licensee will hold an exclusive License for the purpose of dispensing visitor information and tourism related bookings in Times Square.

3. **Term**. The term of this License is for a period of one year, beginning _____ and ending _____. The term of this License Agreement may be administratively extended, by written agreement executed by the Town Manager, for two additional one year periods under substantially similar terms and conditions. However, the License Fees are subject to negotiation at the time an extension is granted.

Any extension of the License Agreement beyond the initial term, plus the administratively approved extension is subject to formal approval of the Town Council.

4. **License Fee.**

- a. Licensee will pay to the Town an annual License Fee of \$_____. The License Fee may be adjusted upon mutual agreement of the parties, with Town Manager approval, based upon an audit of the preceding 12 months. If Agreement extends beyond first or second year, Licensee agrees to pay to the Town an additional amount based upon the Consumer Price Index for all urban consumers South from the U.S. Bureau of Labor Statistics Index for their previous year.
- a. The License Fee is payable in quarterly installments of \$_____. First payment is due on the start date of the agreement and quarterly thereafter.
- b. Licensee is responsible for its operational costs. "Operational costs", as used in this Agreement, are deemed to include: rent, taxes (excluding federal taxes) and governmental fees, insurance, costs of all paid personnel and training costs, all recurring monthly charges for electricity, telephone, internet and other utilities.
- c. License Fees will be paid without demand or invoice to the Town of Fort Myers Beach at the following address:

Town of Fort Myers Beach
Attention: Fiscal Department
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

5. **Security Deposit.** No security deposit is required.

6. **Reporting Requirements and Audit.**

- a. Licensee will submit a semi-annual report of total gross monthly revenues as well as cumulative total annual revenue.
- b. Vendor will establish and maintain a reasonable accounting system that enables the Town to readily identify Licensee's assets, expenses, costs of goods, and use of funds.
- c. Licensee will, at all times during the term of this Agreement and for a period of five years after the final expiration of this Agreement, maintain the financial records, together with related supporting or underlying documents and materials. Licensee agrees that at any time requested by the Town, whether during or after expiration of this Agreement, and at Licensee's own expense, to make the records available for inspection and audit (including copies and extracts of records as required) by the Town. The records will be made available to the Town during normal business hours at the Licensee's office or place of business and subject to a three day written notice. In the event that no Licensee office location is available, then the financial records, together with the supporting or underlying

documents, will be made available for audit at a time and location that is convenient for the Town.

- d. Licensee will ensure the Town has these rights with Licensee's employees, agents, assigns, successors, and subcontractors, and the obligations to secure and extend these rights will be explicitly included in any subcontracts or agreements formed between the Licensee and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Licensee's obligations to the Town under this Agreement.

7. Use of the "Booth Rental Area"- (Licensed Premises)

- a. Hours of Operation. Licensee will operate the Information Booth a minimum of five (5) days a week. Hours of operation are at a minimum of 9:00 a.m. to sunset.
- b. Conditions of Operation. Licensee is granted the right to sell tickets and make sales commissions and fees from the bookings made at the information Booth for attractions, tourism amenities and activities, or transportation.
- c. Town Brochure Space. Licensee will set aside adequate space for Town of Fort Myers Beach information (i.e. parking, The Mound House, Newton Park, Bay Oaks Recreational Center, general Town public awareness, etc.). Licensee agrees to make available as many racks as the Town may need, from time to time, to provide the public with Town related information.
- d. Trash/Litter Removal. Licensee is responsible for daily removal of all trash and litter from the Booth Rental Area.
- e. Parking. Parking for Licensee, its agents and employees is the sole responsibility of Licensee. No dedicated or free parking spaces are included within the License Area or as part of this License Agreement.
- f. Appropriate Uses. Licensee may not use or allow use of the Booth Rental Area in any unlawful, improper or offensive manner or make use of occupancy thereof contrary to the laws of the State of Florida or to any ordinance of the Town.

8. Licensee's Employees.

- a. Licensee is responsible for carefully selecting and screening its employees to ensure none have been convicted of a crime involving a child or children.
 - b. Licensee must comply with all federal, state and local laws including without limitation the Immigration and Nationality Act set forth at Title 8 of the U.S. Code.
- 9. Injury or Damage to Property on Premises.** Licensee's property placed upon the Licensed Premises during the term of this License Agreement will be at Licensee's sole risk. Except for the negligence of Licensor, Licensor will not be liable to the Licensee or any other person for any injury, loss or damage to property or to any person on the Licensed Premises.

10. **Insurance.** Licensee will obtain and maintain insurance meeting the requirements set forth in this section for the entire term of this Agreement.
 - a. Worker's Compensation Coverage for all employees consistent with and meeting the statutory limits required by the applicable State and Federal laws.
 - b. Employer's Liability with a minimum limit per accident in accordance with statutory requirements.
 - c. Commercial General Liability Insurance with minimum limits of \$500,000 per occurrence and \$500,000 aggregate for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$1,000,00.
 - d. Business Automobile Liability Insurance with minimum limits of \$500,000 per person and \$500,000 per accident for Bodily Injury Liability and a minimum limit of \$500,000 for Property Damage Liability, or a minimum combined single limit of \$500,000, with coverage including owned vehicles, hired and non-owned vehicles, and employee non-ownership.
 - e. Crime Coverage with minimum limits of \$200,000.
 - f. Each Certificate of Insurance must include the name and type of policy and coverages provided; the amount or limit applicable to each coverage provided; the date of expiration of coverage; the designation of the Town of Fort Myers Beach as additional insured and as certificate holder, except as to Professional Liability Insurance and for Workers' Compensation Insurance. Licensee will also instruct the issuing company to mail 30 days written notice to the Town of cancellation.

11. **Liability and indemnification.**

- a. Licensee is solely responsible for the security of the License Area, including any equipment within those areas. Town may not be held responsible for any theft, vandalism or other destruction, damage or loss of Licensee's property or equipment.
- b. Licensee agrees to indemnify, hold harmless and defend the Town, its officers, agents, consultants and employees from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of any nature and description brought or recoverable against it or them by reason of any act or omission of the Licensee its agents, consultants, employees or subcontractors, with respect to the Licensee's use of the License Area under this License Agreement.
- c. Licensee may not encumber, or cause to be encumbered, the real or personal property of the Town through the imposition of a mortgage or other lien recorded in the public records.

12. **Termination.**

- a. Either party may terminate this License Agreement upon 90 days written notice to the other party, but only after the completion of the first one year term of this agreement..
- b. The Town has a right to terminate all or a portion of the Licensee's operation if numerous complaints are received and substantiated by the Town; or, Licensee's operation is otherwise deemed not in compliance with the terms of this License Agreement. In the

sole discretion of the Town, Licensee may be provided with an opportunity to correct the noncompliance after written notice is provided. In no event may the noncompliance continue for a period longer than 7 calendar days.

- c. **Default.** Licensee's failure to pay the License Fees or to comply with any provision of this License Agreement constitutes a default of the Agreement. In the event of default, the Town has the right to immediately terminate this License Agreement and retake possession of the License Area without further notice.

13. **Taxes.** Licensee is responsible for all taxes due and payable as a result of this License Agreement to the appropriate taxing authority.

15. **Notices.** Notices referred to in this License Agreement must be in writing, signed and delivered to the appropriate party at the address identified below.

Town: Town of Fort Myers Beach
Attention: Town Manager
2523 Estero Boulevard
Fort Myers Beach, Florida 33931

Licensee: Greater Fort Myers Beach Area
Chamber of Commerce
1661 Estero Boulevard, Suite 8
Fort Myers Beach, Florida 33931

16. **Amendment of Agreement.** This License Agreement constitutes the entire agreement between the parties and may only be amended by a written agreement executed with the same formality.

17. **Governing Law and Venue.** This License Agreement will be construed in accordance with the laws of the State of Florida. Venue for any action arising out of this Agreement will be in Lee County, Florida.

18. **Entire Agreement.** This is the entire agreement between the parties and supersedes all other verbal and written agreements or promises. In the event of a conflict with respect to other written documents pertaining to the operation of the Information Booth, this License Agreement will control.

[Balance of page intentionally left blank.]

IN WITNESS of the above, the Licensee and Town execute this Agreement.

LICENSEE: _____

Witness
Printed Name:

By:_____
Printed Name:
Title:

Witness
Printed Name:

ATTEST:
Michelle Mayher, Town Clerk

LICENSOR
TOWN OF FORT MYERS BEACH

By:_____

By:_____
Dennis C. Boback, Mayor

Approved as to Form

By:_____
Town Attorney

Exhibit:
1: Site plan depicting the License Area and Times Square

